

30 September 1983
OLL 83-2377

MEMORANDUM FOR: Harry Fitzwater
Deputy Director for Administration

James McDonald
Associate Deputy Director for Administration

[redacted]
Chief, Administrative Law Division, OGC

[redacted]
DDO/PCS

FROM: [redacted]
Legislation Division, OLL

SUBJECT: S. 1879 -- Reimbursement of Federal Employee's
Moving Expenses

1. Attached for your information, review and comment is S. 1879, which was introduced on 22 September 1983 by Senator Warner and co-sponsored by Senator Tribble. Senator Warner's introductory remarks are also attached. S. 1879 has been referred to the Committee on Governmental Affairs, where it is pending with no action scheduled at present.

2. S. 1879 is essentially a companion bill to H.R. 3852. The legislative analysis for H.R. 3852 is contained in a memorandum to the DDA, ADDA and C/ALD/OGC from [redacted] AC/Leg/OLL dated 8 September 1983 (OLL-83-2046) and should be consulted for S. 1879 as well. S. 1879 differs from H.R. 3852 only in some non-substantive wording changes and in an amendment to 5 U.S.C. § 5724 (b) (1) to eliminate the \$20/mile limitation on reimbursement for transportation of a mobile home or house trailer.

3. I look forward to receiving your comments on S. 1879 and its companion H.R. 3852.

[redacted]

Attachments

cc: [redacted]

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30 SEP 1983

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II

98TH CONGRESS
1ST SESSION

S. 1879

To amend title 5, United States Code, to revise the authority to reimburse Federal employees for certain moving expenses incurred by such employees in connection with a transfer or reassignment in the interest of the Government from one official station or agency to another for permanent duty.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 19), 1983

Mr. WARNER (for himself and Mr. TRIBLE) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend title 5, United States Code, to revise the authority to reimburse Federal employees for certain moving expenses incurred by such employees in connection with a transfer or reassignment in the interest of the Government from one official station or agency to another for permanent duty.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That (a) section 5723(a)(1) of title 5, United States Code, is
- 4 amended—
- 5 (1) by inserting “(A)” after “travel expenses”;

1 (2) by striking out "manpower shortage or" and
2 inserting in lieu thereof "manpower shortage, (B)"; and

3 (3) by inserting ", or (B) of any person appointed
4 by the President, by and with the advice and consent
5 of the Senate, to a position the rate of pay for which is
6 equal to or higher than the minimum rate of pay pre-
7 scribed for GS-16" after "Senior Executive Service".

8 (b) Sections 5724(a)(2) and 5726(b) of title 5, United
9 States Code, are each amended by striking out "11,000" and
10 inserting in lieu thereof "18,000".

11 (c) Section 5724(b)(1) of title 5, United States Code, is
12 amended by striking out "not in excess of 20 cents a mile".

13 (d) Section 5724 of title 5, United States Code, is
14 amended by adding at the end thereof the following new sub-
15 section:

16 "(j) The regulations prescribed under this section shall
17 provide that the reassignment or transfer of any employee,
18 for permanent duty, from one official station or agency to
19 another which is outside the employee's commuting area
20 shall take effect only after the employee has been given ad-
21 vance notice for a reasonable period. Emergency circum-
22 stances shall be taken into account in determining whether
23 the period of advance notice is reasonable."

24 (e) Section 5724a(a)(3) of title 5, United States Code, is
25 amended—

1 (1) in the first sentence thereof, by striking out
2 "30 days" and inserting in lieu thereof "60 days"; and

3 (2) by striking out the second and fourth sen-
4 tences thereof and inserting after the first sentence the
5 following: "The period of residence in temporary quar-
6 ters may be extended for an additional 60 days if the
7 head of the agency concerned or his designee deter-
8 mines that there are compelling reasons for the contin-
9 ued occupancy of temporary quarters."

10 (f) Section 5724a(a)(4) of title 5, United States Code, is
11 amended—

12 (1) by inserting "(A)" after "(4)"; and

13 (2) by adding at the end thereof the following new
14 subparagraph:

15 "(B)(i) In connection with the sale of the resi-
16 dence at the old official station, reimbursement under
17 this paragraph shall not exceed 10 percent of the sale
18 price or \$15,000, whichever is the lesser amount.

19 "(ii) In connection with the purchase of a resi-
20 dence at the new official station, reimbursement under
21 this paragraph shall not exceed 5 percent of the pur-
22 chase price or \$7,500, whichever is the lesser amount.

23 "(iii) Effective October 1 of each year, the respec-
24 tive maximum dollar amounts applicable under clauses
25 (i) and (ii) shall be increased by the percent change, if

1 any, in the Consumer Price Index published for De-
2 cember of the preceding year over that published for
3 December of the second preceding year, adjusted to the
4 nearest one-tenth of 1 percent. For the purpose of this
5 clause, 'Consumer Price Index' means the Consumer
6 Price Index for All Urban Consumers, United States
7 City Average, Housing Component (1967=100), pre-
8 pared by the Bureau of Labor Statistics, Department of
9 Labor."

10 (g)(1)(A) Subchapter II of chapter 57 of title 5, United
11 States Code, is amended by adding after section 5724a the
12 following new section:

13 **"§ 5724b. Taxes on reimbursements for travel, transporta-**
14 **tion, and relocation expenses of employees**
15 **transferred**

16 "(a) Under such regulations as the President may pre-
17 scribe and to the extent considered necessary and appropri-
18 ate, as provided therein, appropriations or other funds availa-
19 ble to an agency for administrative expenses are available for
20 the reimbursement of all or part of the Federal, State, and
21 city income taxes incurred by an employee, or by an em-
22 ployee and such employee's spouse (if filing jointly), for any
23 moving or storage expenses furnished in kind, or for which
24 reimbursement or an allowance is provided (but only to the
25 extent of the expenses paid or incurred). Reimbursements

1 under this subsection shall also include an amount equal to all
2 income taxes for which the employee, or the employee and
3 spouse, as the case may be, would be liable due to the reim-
4 bursement for the taxes referred to in the first sentence of
5 this subsection.

6 “(b) For the purpose of this section, ‘moving or storage
7 expenses’ means travel and transportation expenses (includ-
8 ing storage of household goods and personal effects under
9 section 5724 of this title) and other relocation expenses under
10 sections 5724a and 5726(c) of this title.”.

11 (B) The chapter analysis at the beginning of chapter 57
12 of title 5, United States Code, is amended by inserting after
13 the item relating to section 5724a the following new item:

“5724b. Taxes on reimbursements for travel, transportation, and relocation expenses
of employees transferred.”.

14 (2) Section 5724(i) of title 5, United States Code, is
15 amended by striking out “5724a” and inserting in lieu there-
16 of “5724a, 5724b,”.

17 SEC. 2. The amendments made by this Act shall be car-
18 ried out by agencies by the use of funds appropriated or oth-
19 erwise available for the administrative expenses of each of
20 such respective agencies. The amendments made by this Act
21 do not authorize the appropriation of funds in amounts ex-
22 ceeding the sums already authorized to be appropriated for
23 such agencies.

1 SEC. 3. (a) The amendments made by this Act shall take
2 effect on the date of the enactment of this Act.

3 (b) Not later than thirty days after the date of the enact-
4 ment of this Act, the President shall prescribe the regulations
5 required under the amendments made by this Act. Such regu-
6 lations shall take effect as of such date of enactment.

○

September 22, 1983

CONGRESSIONAL RECORD — SENATE

S 12757

holders, resulting in a decline in the value of the leased property.

In addition, the ambulatory boundary has created a situation that encourages endless and expensive litigation since, due to rapid changes in the coastline, the determination of the boundary may be relitigated shortly after the resolution of a dispute. This provision would help to put an end to the submerged land litigation which has persisted over a 25-year span. Title II also provides a means for a State and the Federal Government to agree that a final decree of the Supreme Court establishing a boundary is permanent.

Title III establishes a procedure by which States may waive any rights accruing from changes in the coastline. Under present law, Federal approval is required when a State seeks to proceed with the construction of an artificial structure that will extend from the natural coastline beyond the area of State jurisdiction. When this occurs, States usually waive their rights to this land in order to secure Federal approval for the construction. Title III merely preserves this process and establishes a procedure for handling such waivers. It is important to recognize that this provision will only be necessary until that time when the States and Federal Government agree to freeze the boundary in accordance with title II of this Act.

Title IV makes clear that boundaries determined under this act shall not affect the location of the territorial sea of the United States of its baseline.

Mr. President, this legislation will facilitate the process of establishing seabed boundaries between Federal and State subaqueous lands. Even more importantly, this bill would implement a means of rendering these boundaries permanent, thus eliminating the confusion that derives from the ambulatory state of current boundaries. The newly fixed boundaries will aid in the development of the petroleum resources on the outer continental shelf: Petroleum lessee companies will be able to move more expeditiously to develop these energy sources than if they were required to wend their way through the litigious maze.

Not only members of the petroleum industry, but the Federal Government and States would also benefit from this legislation, which aims at removing the air of uncertainty surrounding our national seabed boundaries. I look forward to the expeditious consideration of this bill and urge my colleagues to join me by lending their support.

Mr. President, I would like to request unanimous consent that the text of this bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Seabed Boundary Act."

TITLE I

BOUNDARY AGREEMENTS

SEC. 101. The Attorney General, with the concurrence of the Secretary of State, the Secretary of the Interior, the Secretary of Commerce and the Secretary or other head of any Federal department or agency having administrative responsibility or jurisdiction over any areas of the seabed and subsoil involved, is authorized to agree with similarly authorized officials of any State, as to the specific description of all or part of the boundary between the areas of the seabed and subsoil in which the United States and the State are respectively entitled, on the date of agreement, to control the exploration for and exploitation of the living and/or non-living natural resources. Whenever such an agreement has become binding on the State, either by virtue of the authority vested in the officials negotiating on behalf of the State or by virtue of subsequent ratification by the State in the manner provided by the law of the State, the Governor and Attorney General of the State shall so certify and shall cause the agreement to be deposited, with their certificate in the National Archives and to be published in the Federal Register.

SEC. 102. An agreement entered into under this Title shall determine the location of the boundary until modified by a subsequent agreement or the decree of a court of competent jurisdiction. It is recognized that changes in the coastline may justify changes in the boundary. In such case either party may seek such changes through a subsequent agreement or judicial decree. However, such subsequent agreement or decree shall have no retroactive effect.

TITLE II

IMMOBILIZATION OF BOUNDARIES

SEC. 201. Whenever the entire boundary between the areas of the seabed and subsoil in which the United States and a state are respectively entitled to control the exploration for and exploitation of the natural resources has been specifically described by one or more final decrees and agreements, and if no legal proceeding is pending to revise the description of any part of such boundary, the United States or the State may propose to immobilize the entire boundary as so described.

SEC. 202. The proposal may be initiated by the Attorney General or by an authorized official of the State. When such action is initiated by the State it may be taken in any way authorized by the constitution and laws of the State, provided that the Governor and Attorney General of the State shall furnish to the Attorney General of the United States a copy of the statute or other document embodying the state action, together with their certification that it is in compliance with and effective under the constitution and laws of the State.

SEC. 203. The Attorney General of the United States shall consult with the Secretary of State, Secretary of the Interior, Secretary of Commerce and the Secretary or other head of any Federal department or agency having administrative responsibility or jurisdiction over any areas of the seabed or subsoil involved as to whether the proposed immobilization is in the best interest of the United States. If any Secretary, the Attorney General or other head of any Federal department or agency believes it is not,

the Attorney General shall notify the Governor and Attorney General of the State that the proposal is rejected. If all concur that the proposed immobilization is in the best interests of the United States, the Attorney General shall notify the Governor and Attorney General of the State that the proposal is accepted, and shall deposit in the National Archives and cause to be published in the Federal Register the documents received from the State and his certificate of acceptance, together with a complete description of the boundary referred to if the other documents do not contain such a description. Upon such publication, the boundary so described shall become an immovable boundary for the purposes of delimiting the areas of the seabed or subsoil in which the United States and the State are respectively entitled to control exploration for and exploitation of the living and/or nonliving natural resources as provided in the agreement and regulation and taxation thereof; but such boundary shall have no other legal effect.

SEC. 204. Whenever the extent of the rights acquired by a state under the Submerged Lands Act has been determined by a final decree of the United States Supreme Court and fixed by coordinates, the line so fixed shall be immobilized as described in said decree and shall not be ambulatory in determining the seaward extent of the rights acquired by said state under the Submerged Lands Act, unless within two years of the date of the final decree either party formally objects to the immobilization of such line. Any such objection shall be deposited in the National Archives and published in the Federal Register.

TITLE III

SEC. 301. If any state waives its right to the living and/or nonliving natural resources of the seabed or subsoil which would accrue to it as a result of changes in any portion of its coastline by either serving on the Attorney General a waiver of those rights duly signed by authorized officials of that State, or by entering into an agreement signed by the Attorney General and the Secretary of the Interior with the concurrence of the Secretary or head of any Federal department or agency having administrative cognizance or jurisdiction over any areas of the seabed and subsoils involved and similarly authorized officials of that State, the Attorney General shall, when that agreement or waiver becomes binding, cause it to be deposited in the National Archives and a copy be published in the Federal Register.

TITLE IV

SEC. 401. No boundary established pursuant to this Act shall be deemed to affect, determine, or prejudice the location of the territorial sea of the United States or the baseline from which the breadth of the territorial sea of the United States is measured. Nor shall any such agreement be determinative of state boundaries or any purpose except exploration for and exploitation of the natural resources of the seabed and subsoil, including the regulation and taxation thereof.

By Mr. WARNER (for himself and Mr. TRIBLE):

S. 1879. A bill to amend title 5, United States Code, to revise the authority to reimburse Federal employees for certain moving expenses incurred by such employees in connection with a transfer or reassignment in the interest of the Government from one official duty station or agency to

S 12758

CONGRESSIONAL RECORD — SENATE

September 22, 1983

another for permanent duty; to the Committee on Governmental Affairs.

PAYMENT OF CERTAIN MOVING EXPENSES

• **Mr. WARNER.** Mr. President, today, my colleague from Virginia (Mr. TRIBLE) and I are introducing legislation that will correct several inequities that presently exist when Federal employees are relocated from one geographic area to another to meet the needs of their Federal agency. These relocations are most often directed by the agency-employer.

According to statistics furnished by the Internal Revenue Service, Federal employees who must move as an obligation of their Federal careers incur, on the average, \$8,000 worth of moving expenses that are over and above what their agency-employer is allowed by law to provide. The employees must pay this added cost out of their own pockets.

The Department of Defense Agencies, the FBI, the Drug Enforcement Administration, the Secret Service, the IRS, and the Bureau of Customs all must move many of their middle- and high-level employees back and forth from the field and headquarters to insure orderly rotation, better service, and the many other management services.

In addition, many activities—such as Department of Defense R&D laboratories—are hampered in recruiting qualified professionals because of existing restrictions on reimbursing the expenses an individual incurs when moving from one location to another to accept a Federal position. The private sector has no restriction, thereby putting the Federal Government at a disadvantage.

Everyone is losing in the current situation. Well qualified Federal employees are faced with the choices of leaving Government service or paying out of their pocket thousands of dollars in moving expenses. Government agencies are at a disadvantage recruiting and retaining high quality professionals, managers, and executives. The taxpayers are losing when these practices are adversely affecting the Government's ability to employ the best.

The bill I am introducing will go a long way toward relieving these problems, and a companion measure, H.R. 3852, has been introduced by my colleague in the House, Congressman FRANK WOLF. This legislation will apply only to moves that are certified by each agency to be in the best interest of the Government. I believe this bill will result in fewer, better and more equitable moves. It will provide for the fair treatment of our employees and will put the Government on an equal footing with the private sector.

For these reasons, I urge support for this legislation.

Also, I ask unanimous consent that the entire text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5723(a)(1) of title 5, United States Code, is amended—

(1) by inserting "(A)" after "travel expenses";

(2) by striking out "manpower shortage or" and inserting in lieu thereof "manpower shortage, (B)"; and

(3) by inserting "or (B) of any person appointed by the President, by and with the advice and consent of the Senate, to a position the rate of pay for which is equal to or higher than the minimum rate of pay prescribed for GS-16" after "Senior Executive Service";

(b) Sections 5724(a)(2) and 5726(b) of title 5, United States Code, are each amended by striking out "11,000" and inserting in lieu thereof "18,000";

(c) Section 5724(b)(1) of title 5, United States Code, is amended by striking out "not in excess of 20 cents a mile";

(d) Section 5724 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) The regulations prescribed under this section shall provide that the reassignment or transfer of any employee, for permanent duty, from one official station or agency to another which is outside the employee's commuting area shall take effect only after the employee has been given advance notice for a reasonable period. Emergency circumstances shall be taken into account in determining whether the period of advance notice is reasonable."

(e) Section 5724(a)(3) of title 5, United States Code, is amended—

(1) in the first sentence thereof, by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by striking out the second and fourth sentences thereof and inserting after the first sentence thereof the following: "The period of residence in temporary quarters may be extended for an additional 60 days if the head of the agency concerned or his designee determines that there are compelling reasons for the continued occupancy of temporary quarters."

(f) Section 5724(a)(4) of title 5, United States Code, is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) In connection with the sale of the residence at the old official station, reimbursement under this paragraph shall not exceed 10 percent of the sale price or \$15,000, whichever is the lesser amount."

"(ii) In connection with the purchase of a residence at the new official station, reimbursement under this paragraph shall not exceed 5 percent of the purchase price or \$7,500, whichever is the lesser amount."

"(iii) Effective October 1 of each year, the respective maximum dollar amounts applicable under clauses (i) and (ii) shall be increased by the percent change, if any, in the Consumer Price Index published for December of the preceding year over that published for December of the second preceding year, adjusted to the nearest one-tenth of 1 percent. For the purpose of this clause, 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, United States City Average, Housing Component (1967=100), prepared by the Bureau of Labor Statistics, Department of Labor."

(g)(1)(A) Subchapter II of chapter 57 of title 5, United States Code, is amended by

adding after section 5724a the following new section:

"§5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the Federal, State, and city income taxes incurred by an employee, or by an employee and such employee's spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee, or the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

"(b) For the purpose of this section, 'moving or storage expenses' means travel and transportation expenses (including storage of household goods and personal effects under section 5724 of this title) and other relocation expenses under sections 5724a and 5726(c) of this title."

(B) The chapter analysis at the beginning of chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724a the following new item:

"5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred."

(2) Section 5724(i) of title 5, United States Code, is amended by striking out "5724a" and inserting in lieu thereof "5724a, 5724b."

SEC. 2. The amendments made by this Act shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by this Act do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

SEC. 3. (a) The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) Not later than thirty days after the date of the enactment of this Act, the President shall prescribe the regulations required under the amendments made by this Act. Such regulations shall take effect as of such date of enactment. •

By Mr. CRANSTON (for himself and Mr. TSONGAS):

S.J. Res. 169. Joint resolution concerning the assassination of Benigno Aquino; to the Committee on Foreign Relations.

ASSASSINATION OF BENIGNO AQUINO

Mr. CRANSTON. Mr. President, I am pleased to join with Senator TSONGAS in introducing a joint resolution that expresses the grief and outrage of U.S. citizens over the murder of Senator Benigno Aquino of the Philippines.

Benigno Aquino was a man of great courage and conviction. He spent his career working for the betterment of his fellow citizens. He willingly faced death for his beliefs in freedom and democracy for the people of the Philippines. He suffered years of imprisonment and exile for his convictions. I